



ILLINOIS GAMING BOARD

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For Immediate Release

The legality of Electronic Product Promotion Sweepstakes Kiosks in Illinois

The Illinois Gaming Board (IGB) has become aware that Electronic Product Promotion Sweepstakes Kiosks (Devices) have entered the Illinois market. These Devices allow a patron to insert cash and purchase credits in addition to receiving a coupon that can be redeemed via a website. The patron is then able to wager credits by playing electronic sweepstakes games that look like casino style slots. As credits are won or lost, they are represented on the screen by a running credits total. To cash out, the patron presses a button that removes and resets the credits shown on the screen and prints the total credits on a ticket/coupon. That ticket/coupon can be redeemed for cash at the location.

These Devices violate Section 35 of the Video Gaming Act (VGA), which provides that it is a felony to own, operate, possess or permit to be kept “any device that awards credits and contains a circuit, meter, or switch capable of removing and recording the removal of credits when the award of credits is dependent upon chance.” 230 ILCS 40/35(a). Effective January 1, 2014, Public Act 098-0111 amends section 35(a) of the VGA by adding the following language:

Nothing in this Section shall be deemed to prohibit the use of a game device only if the game device is used in an activity that is not gambling under section (b) of Section 28-1 of the Criminal Code of 2012.

The Criminal Code codified the common law definition of gambling, which has three elements: (1) consideration or purchase, (2) chance, and (3) opportunity for a prize. If any one of these elements is missing, there is no illegal gambling. Thus, in order for these Devices to not constitute illegal gambling, both the Criminal Code and the Illinois Prizes and Gifts Act dictate that no purchase be required. 815 ILCS 525/20, 720 ILCS 5/28-2(b)(13).

Promoters of these Devices (much like electronic raffle machines, internet cafes or Lucky Shamrock Vending Machines), attempt to exploit what they deem a “legal loophole” in Illinois gambling laws by arguing that the purchase paid into the kiosks is for a coupon and not for the wagering credits. This argument has been universally rejected in jurisdictions across the country.¹ Additionally, a promotion under the Illinois Prizes and Gifts Act that allows the opportunity for an alternate means of entry (“no purchase necessary”) does not cancel out the element of consideration or purchase. The obvious purpose of these Devices is to offer a chance to win a prize for consideration. Finally, the Illinois Prizes and Gift Act also requires that written promotional prize offers must contain all nine (9) elements outlined in a clear and conspicuous statement at the onset of the offer. These Devices might not meet all nine elements and accordingly would not comply with the Illinois Prizes and Gift Act.

It is the opinion of the IGB that Electronic Product Promotion Sweepstakes Kiosks fit the definition of a gambling device. These devices will not be licensed by the IGB. An owner of a Licensed Video Gaming Location found to be in possession of such a Device could be charged with a felony under the Video Gaming Act. At a minimum, possession of such a Device will jeopardize suitability for initial or continued licensure.

¹ Courts from New York, Indiana, Ohio, Alabama, North Dakota, Florida, Hawaii, North Carolina all have rejected this argument.